

ORDINANCE #99-9

AN ORDINANCE AMENDING THE PINEHURST DEVELOPMENT ORDINANCE AS IT PERTAINS TO TEXT AMENDMENTS TO SECTIONS 13.1.8, 13.1.9, 13.1.7, 13.1.14, SETBACKS FOR LAKE RESIDENCES AND CONDOS AND NONCONFORMING STRUCTURES.

THAT WHEREAS, the Village Council of the Village of Pinehurst adopted a new Pinehurst Development Ordinance and Map on the 23rd day of October, 1995, for the purpose of regulating planning and development in the Village of Pinehurst and the extraterritorial area over which it has jurisdiction; and

WHEREAS, said Ordinance and Map may be amended from time to time as circumstances and the best interests of the community have required; and

WHEREAS, a Public Hearing was held at 4:00 p.m. March 15, 1999, in the Assembly Hall of the Pinehurst Village Hall, Pinehurst, North Carolina after due notice in The Pilot, a newspaper in Southern Pines, North Carolina, with general circulation in the Village of Pinehurst, and its extraterritorial jurisdiction, for the purpose of considering proposed zoning ordinance text changes, at which time all interested citizens, residents and property owners in the Village of Pinehurst and its extraterritorial jurisdiction were given an opportunity to be heard as to whether they favored or opposed the proposed text amendments; and

WHEREAS, the Planning and Zoning Board has recommended that the Village Council amend the Pinehurst Development Ordinance, Sections 13.1.8, 13.1.9, 13.1.7, 13.1.14, setbacks for lake residences and condos and nonconforming structures.

WHEREAS, the Village Council, after considering all of the facts and circumstances surrounding the proposed amendments in the text of the Pinehurst Development Ordinance, have determined that it is in the best interest of the Village of Pinehurst and the extraterritorial jurisdiction that the Development Ordinance and Map be further amended, making the amendments as requested;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Village Council of the Village of Pinehurst, North Carolina in Regular Session assembled on the 19th day of April 1999, as follows:

SECTION 1. That the Pinehurst Development Ordinance of the Village of Pinehurst and its extraterritorial zoning jurisdiction be and the same hereby is amended by the text amendments attached hereto, and described in Exhibit A, and made a part hereof, the same as if included verbatim.

SECTION 2. That this Ordinance shall be and remain in full force and effect from and after the date of its adoption.

SECTION 3. Adopted this 19th day of April 1999.

(Municipal Seal)

**VILLAGE OF PINEHURST
VILLAGE COUNCIL**

By: *Virginia F. Fallon*
Virginia F. Fallon, Mayor

Attest:

Mary H. McGraw
Mary H. McGraw, Village Clerk

Approved as to form:

John B. Clayton
John B. Clayton, Village Attorney

EXHIBIT A

**ZT0398: PROPOSED AMENDMENTS TO VARIOUS SECTIONS OF THE PINEHURST
DEVELOPMENT ORDINANCE (LAKE ASSOCIATION)
REPORT TO THE VILLAGE COUNCIL
MEETING DATE: APRIL 19, 1999**

Prepared by the Pinehurst Planning and Inspections Department

Request

The request is to consider a variety of amendments to the Pinehurst Development Ordinance (PDO). This report reflects the proposal of the applicant after a meeting on January 5, 1999 with the staff. In accordance with Section 7.1 of the PDO, the Village Council is authorized to amend the PDO. The Planning and Zoning Board makes recommendations to the Village Council on requests for text amendments.

Applicant	William Berghorn 11 Chestnut Lane
	Albert L. Bethel 120 Lake Shore Drive
	Travis Brown 740 Lake Forest Dr. SE
	William C. Kerchof 325 Lake Forest SW
	Havner H. Parish, Jr. 685 Diamondhead Drive S.
	William Raftery 90 Lake Shore Ct.

In reviewing this section, an overview of the request by the applicant will be made. Then, existing language will be printed. Revisions recommended by staff will be noted. Revisions requested during the Village Council public hearing of March 15, 1999 have been incorporated into this report.

13.1.8 BULKHEADS ON LAKES

In general, the applicant is seeking to add the following regulations to the Ordinance:

- Amend the ordinance to state that preferred bulkhead materials include pressure treated timbers, stone, or decorative block. Existing regulations say wood is preferred.
- Require that bulkheads be connected to adjacent bulkheads or, if there is no adjacent bulkhead, extend to the intersection of the shoreline and the side property line. Additionally, bulkheads should be constructed so as to avoid the accumulation of debris.
- Add language that when fill is used, it must be minimized so as to prevent the filling of the lake.

Staff recommends that this section be revised so that bulkheads are allowed subject to a "Bulkhead Permit" rather than a building permit. The permitting authority should be the planning director and not the building inspector. Bulkheads are not addressed in building code.

Staff recommends that existing language on backfilling be deleted. This existing language assumes that you may improve someone else's land ("beyond the boundary of the property").

~~(a) Bulkheads may be constructed along the boundary of a lake subject to a bulkhead permit, with the approval of the *Chief Building Inspector* and only after the issuance of a *Building Permit* by the Inspection and Zoning Department.~~

~~(b) The height of the *bulkheads* shall be no more than 2 feet above the design elevation of any lake. (For example, the design elevation at the top of the spillway on Lake Pinehurst is four hundred and 10 feet above sea level, therefore, a *bulkhead* may be constructed on Lake Pinehurst that is no more than four hundred and twelve feet above sea level).~~

~~(c) Bulkheads must be located as close to the existing shore line as possible so as to minimize the amount of fill and, to the extent possible, minimize the filling of the lake.~~

~~(e) No fill material of any kind shall be added beyond the boundary of the *property contiguous to a lake*. Where a sewer line is located such that construction of a *bulkhead* might cause damage to the sewer line, a building permit may be issued for the *bulkhead* if the *Chief Building Inspector* and *Village Engineer* find that the following conditions have been met:~~

~~(1) That the proposed *bulkhead* is located inside the sewer easement.~~

~~(2) That the owner of the affected portion of the lake has no objection.~~

~~(3) That the proposed *bulkhead* will not adversely affect the shoreline of the adjacent properties.~~

~~When a *bulkhead* is permitted under this exception, backfill out to the *bulkhead* is required.~~

~~(d) Adjacent bulkheads should be similar in height and located so as to avoid the accumulation of debris. If there is a bulkhead on an adjacent lot, the proposed bulkhead must be attached to the adjacent bulkhead. If there is no bulkhead on the adjacent lot, the bulkhead should extend to the intersection of the shore line and the side property line. The preferred bulkhead material is pressure treated wood, stone or decorative stone.~~

13.1.9. Docks on Lakes

In general, the applicant is seeking to add the following regulations to the Ordinance:

- Current regulations limit the width of a dock to 5 feet. The applicant proposes a maximum width of 8 feet and a minimum width of 4 feet.
- Current regulations allow for a dock extension of 24 feet or 19 feet depending on the design. The applicant proposes a dock extension of 24 feet with no limit on the type of design.
- Applicant proposes wording be added to allow cutoff lights and electrical connections on docks. Current regulations limit structures on docks to handrails that are part of bathing ladders.

Property may be improved only with the permission of the property owner. This is the case with all development. Therefore, wording indicating permission of the property owner is necessary is proposed to be deleted.

13.1.9. Docks on Lakes

(a) Docks may be constructed along the boundary of a lake with the approval of the *Chief Building Inspector* and only after the issuance of a *Building Permit* by the Planning and Inspections and Zoning Department.

(b) Docks and construction added to docks (other than handrails, that are a part of bathing ladders, electrical connections, and cutoff lights not to exceed a height of 6 feet from the dock to the top of the light fixture) shall be built at a height not to exceed the height of the *bulkhead* to which they are attached (e.g. not to exceed four hundred and twelve feet above sea level on Lake Pinehurst).

(c) Docks shall be located the lesser of either

~~_____ (1) The edge of any property line (if the property lines extend into the lake); or (2) No part of the dock shall extend more than twenty-four feet out into the lake from the shoreline bulkhead from which it extends nor shall it extend more than twenty four feet out into the lake from the property line.~~

(d) Docks shall be no wider than 8 feet and no narrower than 4 feet, and shall be positioned so as to maintain at least a fifteen foot side setback from the side lot lines as extended out into the lake.

(e) Docks shall be of a permanent, pressure treated wood construction, connected to the shore of the property they serve, and be secured anchored to the bottom.

(f) The applicant must present a letter at the time of application to the Department of Inspections and Zoning from the owner of the affected lake stating that the mooring of the dock is acceptable.

(g) There are only 3 permitted configurations for docks: Either: In a simple "I" pattern 5 feet wide and no more than twenty-four feet long, or; In a "T" pattern with the base of the "T" extending out from the shore no more than nineteen feet and the cross or top of the "T" extending no more than twenty-four feet in length or; In an inverted "L" pattern with the base of the "L" extending no more than nineteen feet into the lake and the other leg of the "L" extending at right angles to the base for a distance of no more than nineteen feet.

13.1.7 PLAYGROUND EQUIPMENT; CLOTHES LINES

In general, the applicant proposes to add the following to the Ordinance:

- All playground equipment and clothes lines in the building envelope in the side or rear yard only. Currently, in the R5, R8, and R10 zoning districts, the side and rear setback for these structures is 5 feet.

13.1.7 Playground Equipment; Clothes Lines

All swing sets and children's playground equipment and clothes lines shall be located only in the rear or side yard. A five foot setback from the rear and side property lines is required in the R5, R8, and R10 zoning districts. In all other zoning districts, the setback is equal to the principal building setback. Playground equipment and clothes lines must be entirely screened from all adjacent property lines.

13.1.14 BOATS, TRAILERS, AND OVER-SIZED VEHICLES

In general, the applicant proposes to add the following to the Ordinance:

- Revise boat regulations so that they only apply to boats "out of water."
- Current regulations allow for boats to be "temporarily stored" along the lake shore subject to certain conditions. However, no definition of "temporarily" is provided. The applicant has proposed that the word "temporarily" be removed and the word "stored" be replaced with "keep and maintain." Staff

agrees with removal of the word "temporarily" as no definition is provided making enforcement difficult. Staff recommends that the word "stored" be retained as the words "keep and maintain" almost imply that they boats will be worked on.

- In order to "temporarily store" a boat on lake shore property, the boat must be approved "for use on that lake." The applicant proposes that this wording be deleted as "a boat is a boat."
- In order to "temporarily store" a boat on lake shore property, the boat must be no closer than 15 feet from any property line. The applicant recommends that the 15 foot setback apply to the side property line only.
- In order to "temporarily store" a boat on lake shore property, the boat must be stored in the yard "enfronting" the lake shore. The applicant proposes replacing "enfronting" with "abutting" since "enfronting" is not a word.

13.1.14. Boats, Trailers and Over-Sized Vehicles

(a) In all *zoning districts*, except R-210, all boats out of water, *trailers* and/or oversized vehicles shall be stored in a totally enclosed garage or other *building* except that temporary parking of a boat out of water, trailer or over sized motorized vehicle is allowed for 7 days in any month on private property with the consent of the property owner.

(b) In all *non-residential zoning districts* and in the R-210 district, all boats out of water, *trailers*, and/or over-sized vehicles shall either be stored in an enclosed *building* or be stored in a *rear* or *side yard*. If stored in a *yard*, the vehicles shall be screened from view at any *property line*.

(c) Owners of lake shore property may temporarily store boats out of water along the lake shore provided that all of the following conditions are met:

(1) ~~(1) The boat(s) are approved for use on that lake; and~~

(1) The boat(s) are owned by the resident of the property; and

(2) The boat(s) are stored no closer than fifteen feet from the side property line any ~~property~~ line; and

(3) The boat(s) are stored in the yard abutting ~~enfronting~~ the lake shore; and

(4) The boat(s) are not stored on a trailer; and

(5) ~~(5) The boat(s) are in good repair and usable condition.~~

(6) The boats do not exceed an overall hull length of fourteen feet.

SETBACKS FOR LAKE RESIDENCES AND CONDOS

- The applicant proposes that the setback from the lake in the R20, R15, and R10 zoning districts be 30 feet rather than 60 feet. The applicant has noted an inconsistency between Table 11.1.3 and chapter 8 in terms of setback from the lake. Chapter 8 requires 60 feet while Table 11.1.3 states 30 feet. However, the text of the PDO states that if there is conflict between Table 11.1.3 and Chapter 8, the regulations of Chapter 8 shall apply. Staff agrees in part with the applicant. Lots 20,000 square feet or less cannot meet the 60 foot setback. Staff recommends that the setback requirement from Lakes and Golf Courses be 60 feet if the land is zoned RMF, R30 or R210. In all other residential districts, the setback requirement from Lake and Golf Courses should be 30 feet.
- The applicant also proposes that the 30 foot or 60 foot setback, for lots abutting golf courses and lakes, be taken from both the existing shore line, out-of-bounds marker, and property line. Given that some lots include land into the lake, this will ensure the structure is never within 30 or 60 feet, as applicable, of the golf course or the lake.

Proposed language to be added to parts of Chapter 8 and Chapter 11:

For lots in the R20, R15, R10 and R8 zoning districts that abut a lake, all structures must be at least 30 feet from both the property line and the shore line. For lots in all other zoning districts that abut a lake, all structures must be at least 60 feet from both the property line and the existing shore line. For lots in the R20, R15, R10 and R8 zoning districts that abut a golf course, all structures must be at least 30 feet from the property line abutting the golf course. For lots in all other zoning districts that abut a golf course, all structures must be at least 60 feet from the property line abutting the golf course.

NONCONFORMING STRUCTURES

- Section 16.1.3.c.2 states that if a nonconforming structure is destroyed by more than 50% of its replacement costs, the structure, when reconstructed, must comply with the development regulations. An exception is made for single family dwellings that existed on October 23, 1995. A nonconforming structure is a structure that was legally erected but, due to changes in the development regulations, violates a setback or the building height. The applicant proposes to add "multifamily residential development that existed on October 23, 1995" to this exception. If amended as proposed, condos that currently violate setbacks, if destroyed by more than 50%, could be rebuilt in their same location.

PLANNING AND ZONING BOARD RECOMMENDATION

At their meeting of February 11, 1999, the Planning and Zoning Board voted to recommend that the PDO be amended as proposed.